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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,849	11/13/2003	Jacques Durocher	86421-31	4900
7590	06/01/2005		EXAMINER	
SMART & BIGGAR Suite 3400 1000 de la Gauchetiere Street West Montreal, QC H3B 4W5 CANADA			LINDSEY, RODNEY M	
			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 06/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/705,849	DUROCHER, JACQUES	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rodney M. Lindsey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-20 and 22-26 is/are allowed.
- 6) Claim(s) 21 and 27-34 is/are rejected.
- 7) Claim(s) 35 and 36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 2/13/04, 3/14/05.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device “coupled” to the pads as set forth in claim 27 and the wedging member between the pads and the “regions” as set forth in claim 33 (as opposed to the “surfaces”) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Basis should be provided for the device being “coupled” to the inner pads as set forth in claim 27 and for the wedging member being between the inner pads and “regions” as set forth in claim 33.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Infusino. With respect to claims 21 and 27 as the helmet of Infusino is designed for protecting the head it is inherently usable as a hockey helmet. With respect to claim 21 note the shell as at 50 with left and right inner surfaces as at 51, 54 and the inner pads at 45 covering the left and right inner surfaces at 51, 54, the inner pads movable by means of an inflatable member 10 from a first position to a second position to apply a second pressure to a head greater than that of a first pressure of the first position. With respect to claim 27 note the shell as at 50, the left and right side inner pads as at 45 and the mechanical actuation device “inflatable member 10”. With respect to claim 28 note that member 10 defines a left and right device 32, 33 for engaging the left and right side inner pads.

5. Claims 21 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Egolf et al.

With respect to claim 21 and 27 as the helmet of Egolf et al. is designed for protecting the head it is inherently usable as a hockey helmet. With respect to claim 21 note the shell at 80 in Figure 14 with left and right inner surfaces as at 87, the inner pads covering the left and right inner surfaces and movable by 84-86 from a first position to a second position to apply a second pressure to a head greater than that of a first pressure of the first position. With respect to claim 27 note the shell at 80 the left and right side inner pads adjacent 87, 87 and the mechanical actuation device as at 84-86.

6. Claims 21 and 27-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Holden, Jr. With respect to claims 21 and 27 as the helmet of Holden, Jr. is designed for protecting the head it is inherently usable as a hockey helmet. With respect to claim 21 note the shell 11 with left and right inner surfaces and the inner pads 36, 37 covering the left and right inner surfaces and movable from a first position to a second position more tightly engaging a head. With respect to claim 27 note the shell 11 , the left and right side inner pads 36, 37 and the mechanical actuation device "strap 50". With respect to claim 28 note the independently operable mechanical actuation devices 56, 57. With respect to claim 29 note the components 60, 61. With respect to claim 30 note that the components 60, 61 are knob shaped as claimed. With respect to claim 31 note the sliding operation of the components 60, 61 along 63. With respect to claim 32 "strap 50" is equivalent to a wedging member as claimed. With respect to claim 33 note the location of 56, 57 of the wedging member 50. With respect to claim 34 note such movement of the inner pads 36, 37 upon sliding of the components 60, 61 of the mechanical actuation device 50.

***Allowable Subject Matter***

7. Claims 1-20 and 22-26 are allowed.
8. Claims 35 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the adjustable pads of Morgan and Schulz.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney M. Lindsey  
Primary Examiner  
Art Unit 3765

rml